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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,449	07/27/2001	Edward Acosta	BRDC:20	9696
29395	7590	11/28/2005	EXAMINER	
H. DALE LANGLEY, JR. THE LAW FIRM OF H. DALE LANGLEY, JR. PC 610 WEST LYNN AUSTIN, TX 78703			SHAH, CHIRAG G	
			ART UNIT	PAPER NUMBER
			2664	

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/917,449	ACOSTA ET AL.
	Examiner Chirag G. Shah	Art Unit 2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 06 October 2005.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-3,5-8,19-22 and 28 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-3, 5-8, 19-22, and 28 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-3, 5-8, 19-22 and 28 have been considered but are moot in view of the new ground(s) of rejection.
2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Drawings***

1. The drawings are objected to because in figure 3, the reference numerical corresponding to "upload client" is illegible. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-3, 5-8, 19-22, and 28 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claimed limitations of: the optimized protocol comprising: a payload of a series of data; a header at the beginning, middle and towards the end of the series and equipment comprising an identifier for determining, based on receiving the header transmitted over the wireless channel by the wireless device and any of the series, if any other of the series is not received from the wireless device and an acknowledger for communicating, based on the determination by the identifier, over the wireless channel, a message selected from the group consisting of: all of the series received and the header received, not all the series received and the header received; and some of the series received but the header not received, are not described in the specification to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Furthermore, the incorporation of essential material in the specification by reference to a Patent No. 6,496,520 is improper. Since, Patent No. 6,496,520 is never mentioned in the specification or cross-reference portion.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3, 5-8, and 19-22 rejected under 35 U.S.C. 102(e) as being anticipated by Liao et al. (U.S. Patent No. 6,148,405), hereinafter, referred as Liao.

Regarding claim 1, Liao discloses in **figure 1** of a wireless communications network [wireless communication network 100, fig. 1], comprising:

a wired network [108, figure 1],

a wireless channel [**CDPD system 108, as disclosed in figure 1 and in col. 5,**

*lines 54-62, 102 controlled by carrier 108 CDPD, Note: CDPD transmits data packets on unused cellular channels in the 800MHz to 900MHz range) communicate with each other using a radio transmission];*

a wireless application service provider server computer [**112 web server, fig. 1**]

connected to the wired network [104, figure 1] [**as disclosed in figure 1**]

a wireless packetized data communications provider equipment [**Airnet 102 controlled by carrier CDPD 108 provides packet data transfer from wireless network, 108, figure 1**] connected to the wired network [**figure 1, 104**]; and

a wireless device [**106, figure 1**] communicatively connected via the wireless channel [**col. 5, lines 54-62, CDPD system**] to the wireless packetized data communications provider [**Airnet 102 controlled by CDPD wireless network 108**] as claim.

Regarding claim 2, Liao further discloses of comprising a client software [**HDML web browser, fig 1 and col. 6, lines 23-30**] for communicating via specialized protocols [**UDP, HDTP and SUGP as disclosed in col. 6, lines 18-30**] with the wireless application service provider server computer [**web server 112, figure 1**] over the wireless channel [**CDPD system 108**] and the wired network [**wired Internet 104, figure 1**] as claim.

[As disclosed in **col. 6, lines 18-30**, *the communication protocol between the mobile device 106 and the link server 114 via the airnet is HDTP, SUGP and UDP and in the Internet 104 is HTTP that runs on TCP and controls the connection of an HTML Web browser to a web server and the exchange of information therebetween*] as claim.

Regarding claim 3, Liao discloses in **figure 1, col. 6, 18-23**, of the wired network (104). The wired network 104 operates according to an open systems interconnect model protocol since **as disclosed in col. 6, 18-23, HTTP is the protocol used in the wired Internet 104**, which is a built in the TCP/IP Protocol Suite, corresponding to transport of network layers of the OSI (open system-interconnect) model as claim protocol

*[for further reference of HTTP being a part of the TCP/IP Protocol Suite corresponding to the OSI model, see Data & Computer Communications, 6<sup>th</sup> Edition by William Stallings, pages 52-53 & 59].*

Regarding claim 5, Liao discloses in **fig. 1, col. 5, lines 49-56**, wherein the wired network [104, **fig. 1**] is the Internet as claim.

Regarding claim 6, Liao discloses **fig. 1, col. 5, lines 55-65**, wherein the wireless channel is a cellular packetized data [**GSM**] system as claim.

Regarding claim 7, Liao discloses in **fig. 1, col. 5, lines 55-65** wherein the wireless channel is a CDPD system as claim.

Regarding claim 8, Liao discloses in **fig. 1 and col. 6, lines 18-23**, further comprising a server software [**HTML web browser software running on 112, as in fig. 1**] stored on the wireless application service provider server computer [**web server 112, fig. 1**] for communicating via specialized protocols [**HTML as disclosed in col. 6, lines 18-23**] with the wireless device [**mobile device 106, fig. 1**] over the wired network [**Internet 104, fig. 1**] and the wireless channel [**CDMA system 108, fig. 1**] as claim.

Regarding claim 19, Liao discloses in fig. 1 of a computer readable substrate [**Web Server 112**] having a computer program [**information stored in the web server as col. 6, lines 5-10**] saved thereupon, the computer Program comprising the steps of:

providing a wireless device [**106, fig. 1**] with an on-line access to a website, the website maintained on a server computer [**Web Server 112, fig. 1**] connected to a wired network [**Internet 104, fig. 1**]

*[as disclosed in col. 13, lines 4-13, a client request to access information stored and identifies by the URL supported at the server 142, the server responds with tSP to the client with the desired URL providing on-line access];*

transmitting a packetized data [**tSP 154, col. 13, lines 4-13**] to the wireless device [**client/mobile fig. 1**] at least in part over a wireless channel [**CDPD system 108, fig. 1**]  
*[as disclosed in col. 3, lines 19-23 of the communication between client and server taking place through the wireless data communication as in fig. 1];*

receiving the packetized data [**tSP**] by the wireless device [**client 106, fig. 1**]

[as disclosed in col. 12, lines 66 to col. 13, lines 3, *the client receives tSP from the server*];

transmitting a second packetized data [session complete, claim 11] to the server computer [web server 112, fig. 1] at least in part over a wireless channel [CDPD System 108, fig. 1]

[as disclosed in fig. 1, col. 3, lines 19-23 and claim 11, *the communication data (second message-session complete of claim 11) is transmitted from link server 114 to wired Internet 104*]; and

receiving the second packetized data [session complete, claim 11] by the server computer [web server 112, fig. 1]

[as disclosed in claim 11 and fig. 1, *the server receives the session-complete signal from the client via wired Internet 104*] as claim.

[Note, as disclosed in col. 6, lines 38-46, *the exchange message (tSR and rSP) are very small number of data packets*]

Regarding claim 20, Liao discloses wherein the computer program [stored within the web server 112, col. 6, lines 5-10] further comprises the steps of communicating the packetized data [tSP, col. 13, lines 4-13] at least in part over the wired network [Internet 104, fig. 1]

[As disclosed in fig. 1 and in col. 3, lines 18-23, *server and client establish secure communication session for transaction through the wireless data network schematic*. Furthermore, as disclosed in col. 6, lines 38-46 of *exchanging small number of packets for session message, establishing tSP as a packetized data*. Also, as disclosed in combination of

**fig. 1 and col. 13, lines 4-13, the wired Internet 104 is connected to web server 112 establishing that the web server 112 communicates communication data (tSP) over the wired Internet 104 to the client].**

Regarding claim 21, Liao discloses wherein the computer program [**stored within the web server 112, col. 6, lines 5-10**] further comprises the steps of communicating the second packetized data [**session completion data packet as in claim 11**] at least in part over the wired network [**Internet 104 fig. 1**]

[As disclosed in **fig. 1 and in col. 3, lines 18-23, server and client establish secure communication session form transaction through the wireless data network schematic. As disclosed in claim 11, the client communicates session completion data packet to server and based on fig. 1 schematic transactions, the session complete data packet is sent from client 106 to airnet 102 is wirelessly, however, upon the data packet reaching the link server 114, it is sent via the wired Internet 104 to the web server 112**].

Regarding claim 22, Liao discloses **in col. 6, lines 34-46** wherein the packetized data [**tSP, col. 13, lines 4-13**] and the second packetized data [**session completion data packet, claim 11**] are each formatted according to an OSI model

[as disclosed in **col. 6, lines 34-46, HDTP is a session-level protocol that resembles HTTP (HTTP runs TCP as in col. 5, lines 18-20, which is a layer 4 protocol of the OSI model), the session creation packets exchanged (tSP (first data), and session creation data packets**]

*(second data)) clearly indicate are formatted according to the OSI model since HDTP resembles the HTTP (which is a part of the OSI model) without the incurring overhead].*

***Conclusion***

**Any response to this action should be mailed to:**

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**Or faxed to:**

(703)305-3988, (for formal communications intended for entry)

**Or:**

(703)305-3988 (for informal or draft communications, please label “Proposed” or “DRAFT”)

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Chirag G. Shah whose telephone number is 571-272-3144. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cgs  
November 15, 2005

  
Ajit Patel  
Primary Examiner